

(1) in subsection (i)—

(A) in paragraph (1)(A), by striking “pre-clinical tests (including tests on animals)” and inserting “nonclinical tests”; and

(B) in paragraph (2)(B), by striking “animal” and inserting “nonclinical tests”; and

(2) after subsection (y), by inserting the following:

“(z) NONCLINICAL TEST DEFINED.—For purposes of this section, the term ‘nonclinical test’ means a test conducted in vitro, in silico, or in chemico, or a non-human in vivo test that occurs before or during the clinical trial phase of the investigation of the safety and effectiveness of a drug, and may include animal tests, or non-animal or human biology-based test methods, such as cell-based assays, microphysiological systems, or bio-printed or computer models.”

(b) BIOSIMILAR BIOLOGICAL PRODUCT APPLICATIONS.—Item (bb) of section 351(k)(2)(A)(i)(I) of the Public Health Service Act (42 U.S.C. 262(k)(2)(A)(i)(I)) is amended to read as follows:

“(bb) an assessment of toxicity (which may rely on, or consist of, a study or studies described in item (aa) or (cc)); and”.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I move to proceed to the motion to reconsider the vote on the confirmation by which Executive Calendar No. 1043, the nomination of Arianna J. Freeman, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, was not confirmed.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the motion to reconsider.

The motion was agreed to.

The PRESIDING OFFICER. The motion having been agreed to, the Senate proceeds to executive session and the clerk will report the nomination.

The legislative clerk read the nomination of Arianna J. Freeman, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

NOMINATION OF ARIANNA J. FREEMAN

Mr. DURBIN. Mr. President, the Senate will soon vote to confirm another outstanding nominee to the Federal bench: Arianna Freeman, nominated to the Third Circuit Court of Appeals.

Ms. Freeman is an accomplished appellate attorney and a ground-breaking pick for the Third Circuit. Her perspective, experience, and legal acumen will greatly benefit the court. And once confirmed, she will be the first Black woman to serve on the Third Circuit.

After earning her B.A. with honors from Swarthmore College and her J.D. from Yale Law School, Ms. Freeman clerked for three judges on the Eastern District of Pennsylvania, based in Philadelphia.

In 2009, following her clerkships, Ms. Freeman joined the Federal Community Defender's Office for the Eastern District of Pennsylvania, an office she has served with distinction. As a Federal public defender, Ms. Freeman has dedicated her career to representing indigent criminal defendants seeking to vindicate their constitutional rights—

to due process, effective assistance of counsel, and other constitutional guarantees.

Unfortunately, some of my Republican colleagues have suggested that Ms. Freeman's public defense work disqualifies her from judicial service.

In reality, Ms. Freeman has undertaken this work in support of the Constitution and the rule of law. Her zealous advocacy has helped to ensure that the protections of the Fifth and Sixth Amendments are made real for criminal defendants. Throughout her career, she has advanced the cause of equal justice under law.

Ms. Freeman received a unanimous rating of “well qualified” from the American Bar Association.

She has the strong support of Senator CASEY, as well as many leaders in the Pennsylvania legal community. This includes four former Federal prosecutors who sent a letter to the Judiciary Committee writing, “We are impressed by Arianna's diligence, intelligence, dedication, and integrity. It is because of her ethics and compassion, grounded in sensibility, that we are confident she will provide sound and measured opinions, while approaching each case without bias and with respect for the rule of law.”

I will support Ms. Freeman's confirmation, and I urge my colleagues to do the same.

MOTION TO RECONSIDER

Mr. SCHUMER. Mr. President, I move to reconsider the vote by which Executive Calendar No. 1043 was not confirmed.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

The motion was agreed to.

VOTE ON FREEMAN NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Freeman nomination, upon reconsideration?

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Utah (Mr. LEE), the Senator from Ohio (Mr. PORTMAN), and the Senator from Florida (Mr. RUBIO).

Further, if present and voting the Senator from Utah (Mr. LEE) would have voted “nay.”

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 350 Ex.]

YEAS—50

Baldwin	Casey	Heinrich
Bennet	Coons	Hickenlooper
Blumenthal	Cortez Masto	Hirono
Booker	Duckworth	Kaine
Brown	Durbin	Kelly
Cantwell	Feinstein	King
Cardin	Gillibrand	Klobuchar
Carper	Hassan	Leahy

Lujan	Peters
Manchin	Reed
Markey	Rosen
Menendez	Sanders
Merkley	Schatz
Murphy	Schumer
Murray	Shahen
Ossoff	Sinema
Padilla	Smith

Stabenow
Tester
Van Hollen
Warner
Warnock
Warren
Whitehouse
Wyden

NAYS—47

Barrasso	Fischer	Paul
Blackburn	Graham	Risch
Blunt	Grassley	Romney
Boozman	Hagerty	Rounds
Braun	Hawley	Sasse
Burr	Hoeven	Scott (FL)
Capito	Hyde-Smith	Scott (SC)
Cassidy	Inhofe	Shelby
Collins	Johnson	Sullivan
Cornyn	Kennedy	Thune
Cotton	Lankford	Tillis
Cramer	Lummis	Toomey
Crapo	Marshall	Tuberville
Cruz	McConnell	Wicker
Daines	Moran	Young
Ernst	Murkowski	

NOT VOTING—3

Lee	Portman	Rubio
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(Mr. HEINRICH assumed the Chair.)

(Mr. REED assumed the Chair.)

The PRESIDING OFFICER (Mr. SCHATZ). On this vote, the yeas are 50, the nays are 47.

Upon reconsideration, the nomination is confirmed.

The majority leader.

Mr. SCHUMER. Mr. President, I ask unanimous consent that for any nominations confirmed during today's session of the Senate, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

AFFORDABLE INSULIN NOW ACT—Continued

UNANIMOUS CONSENT AGREEMENT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate resume legislative session; that it be in order for Senator BRAUN to offer amendment No. 5765; that at 1:45 p.m., all motions and amendments other than the substitute be withdrawn; that no further amendments be in order to the bill; that substitute amendment No. 5745 be agreed to; that the bill, as amended, be considered read a third time; and that the Senate vote on the passage of the bill, as amended, with 60 affirmative votes required for passage, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SCHUMER. Mr. President, for the information of the Senate, there will be two rollcall votes at 1:45 p.m. The first vote will be on the passage of the continuing resolution to fund the government through December 16. The second vote will be on the confirmation of the Gomez nomination upon reconsideration.